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10/806,800

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Gilles G. Fayad

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FARJAMI & FARJAMI LLP  
26522 LA ALAMEDA AVE.  
SUITE 360  
MISSION VIEJO, CA 92691

EXAMINER

RIYAMI, ABDULLA A

ART UNIT

PAPER NUMBER

2609

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/806,800

Applicant(s)

FAYAD ET AL.

Examiner

Abdullah Riyami

Art Unit

2609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-47, 49-51 and 53 is/are rejected.
- 7) ☒ Claim(s) 48 and 52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 03/23/2004
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because in figure 4, it is suggested to change "VIATUAL END-END SESSION TERMINATED" to -VIRTUAL END-END SESSION TERMINATED--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the

Art Unit: 2609

amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### ***Claim Objections***

3. Claims 32 and 40 are objected to because of the following informalities:

In claim 32, line 2, it is suggested to change "said second data link protocol" to – a second data link protocol--, since it is mentioned for the first time. Similar problem exists in claim 40, line 2.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 30-32, 38-40, 46-47, and 50-51 are rejected under 35 U.S.C. 102(e) as being anticipated by Farris et al. (US 6438218 B1).

In claim 30, Farris et al. teaches of a method for use by a first gateway (see figure 4, block 72) to establish data communication between a first modem (see

Art Unit: 2609

figure 4, block 64) and a second modem (see figure 4, block 66) over a packet network (see figure 4, block 84), the method comprising: receiving a call from the first modem over a first telephone line (see column 12, lines 23-45 and figure 4, block 72); negotiating, in response to the call, over the first telephone line with the first modem to establish a first physical link connection (see column 10, lines 10-67);

informing a second gateway of the call over the packet network (see, receiver router, column 10, lines 1-30);

establishing a gateway-to-gateway transport link with the second gateway over the packet network (see TCP/IP format, column 10, lines 1-30);

determining a set of data link parameters supported by the first modem, the first gateway, the second gateway and the second modem (see column 12, lines 10-23 and column 6, lines 5-22);

establishing a first data link protocol over the first physical link connection using the set of data link parameters (see column 6, lines 60-64);

wherein data is communicated between the first modem and the second modem over an end-to-end reliable connection (see TCP/IP format, column 10, lines 1-30) between the first modem at one end and the second modem at the other end, wherein the end-to-end reliable connection (see column 6, lines 55-65) uses the set of data link parameters (see column 12, lines 10-23 and column 6, lines 5-22).

In claim 31, Farris et al. teaches of a method, wherein the second gateway informs the second modem of the call over a second telephone line, and wherein the second gateway negotiates with the second modem over the second telephone line to establish a second physical link connection (see column 10, lines 1-30 and column 12, lines 10-23).

In claim 32, Farris et al. teaches of a method, wherein, during the determining, the second gateway establishes a second data link protocol (inherent that it is TDM, see column 6, lines 60-64) over the second physical link connection using the set of data link parameters (see column 12, lines 10-23 and column 6, lines 5-22).

In claim 38, Farris et al. teaches of a first gateway (see figure 4, block 72) capable of establishing data communication between a first modem (see figure 4, block 64) and a second modem (see figure 4, block 66) over a packet network (see figure 4, block 84), the first gateway comprising: a receiver (see figure 5) configured to receive a call from the first modem over a first telephone line (see column 12, lines 23-45 and figure 4, block 72); a controller (see figure 5, block 87) configured to negotiate, in response to the call, over the first telephone line with the first modem to establish a first physical link connection (see column 10, lines 10-67), wherein the controller is further configured to inform a second gateway (see, receiver router, column 10, lines 1-30) of the call over the packet network and establish a gateway-to-gateway transport link (see TCP/IP format, column 10, lines 1-30) with the second gateway over the packet network;

wherein the controller is further configured to determine a set of data link parameters supported by the first modem, the first gateway, the second gateway and the second modem (see column 12, lines 10-23 and column 6, lines 5-22), and establish a first data link protocol over the first physical link connection using the set of data link parameters (see column 6, lines 60-64); wherein data is communicated between the first modem and the second modem over an end-to-end reliable connection (see TCP/IP format, column 10, lines 1-30) between the first modem at one end and the second modem at the other end (see column 6, lines 55-65), wherein the end-to-end reliable connection uses the set of data link parameters (see column 12, lines 10-23 and column 6, lines 5-22).

In claim 39, Farris et al. teaches of a first gateway (see figure 4, block 72), wherein the second gateway informs the second modem of the call over a second telephone line, and wherein the second gateway negotiates with the second modem over the second telephone line to establish a second physical link connection (see column 10, lines 1-30 and column 12, lines 10-23).

In claim 40, Farris et al. teaches of a first gateway (see figure 4, block 72), wherein the controller (see figure 5, block 87) determines the set of data link parameters while the second gateway establishes the second data link protocol (inherent that it is TDM, see column 6, lines 60-64) over the second physical link connection using the set of data link parameters (see column 12, lines 10-23 and column 6, lines 5-22).

In claim 46, Farris et al. teaches of a method for use by a first gateway (see figure 4, block 72) to establish data communication between a first modem (see figure 4, block 64) and a second modem (see figure 4, block 66) over a packet network (see figure 4, block 84), the method comprising: receiving a call from the first modem over a first telephone line (see column 12, lines 23-45 and figure 4, block 72); negotiating, in response to the call, over the first telephone line with the first modem to establish a first physical link connection (see column 10, lines 10-67); negotiating with the first modem to establish a first data link protocol (see column 6, lines 60-64) over the first physical link connection; informing a second gateway of the call over the packet network (see, receiver router, column 10, lines 1-30);

establishing a gateway-to-gateway transport link with the second gateway over the packet network (see TCP/IP format, column 10, lines 1-30); wherein the second gateway informs the second modem of the call over a second telephone line, and wherein the second gateway negotiates with the second modem over the second telephone line to establish a second physical link connection (see column 10, lines 1-30 and column 12, lines 10-23) and further negotiates with the second modem to establish a second data link protocol (see column 6, lines 60-64 and figure 4 blocks 74 and 66) over the second physical link connection; and wherein data is communicated between the first modem and the second modem over three independent reliable connections including the first data link protocol (see column 6, lines 60-64), the gateway-to- gateway reliable transport link (see



TCP/IP format, column 10, lines 1-30) and the second data link protocol (see column 10, lines 1-30 and column 12, lines 10-23).

In claim 47, Farris et al. teaches of a method for use by a first gateway (see figure 4, block 72), wherein the gateway-to-gateway reliable transport link uses a different error correction protocol (see TCP/IP format, column 10, lines 1-30) than the first data link protocol (see column 6, lines 60-64) and the second data link protocol (see column 10, lines 1-30 and column 12, lines 10-23).

In claim 50, Farris et al. teaches of a first gateway (see figure 4, block 72) capable of establishing data communication between a first modem (see figure 4, block 64) and a second modem (see figure 4, block 66) over a packet network (see figure 4, block 84), the first gateway comprising: a receiver (see figure 5) configured to receive a call from the first modem over a first telephone line (see column 12, lines 23-45 and figure 4, block 72); a controller (see figure 5, block 87) configured to negotiate, in response to the call, over the first telephone line with the first modem to establish a first physical link connection (see column 10, lines 10-67), wherein the controller is further configured to negotiate with the first modem to establish a first data link protocol (see column 6, lines 60-64) over the first physical link connection; informing a second gateway of the call over the packet network (see, receiver router, column 10, lines 1-30); establishing a gateway-to-gateway transport link with the second gateway over the packet network (see TCP/IP format, column 10, lines 1-30); wherein the second gateway informs the second modem of the call over a second telephone

Art Unit: 2609

line, and wherein the second gateway negotiates with the second modem over the second telephone line to establish a second physical link connection (see column 10, lines 1-30 and column 12, lines 10-23) and further negotiates with the second modem to establish a second data link protocol (see column 6, lines 60-64 and figure 4 blocks 74 and 66) over the second physical link connection; and wherein data is communicated between the first modem and the second modem over three independent reliable connections including the first data link protocol (see column 6, lines 60-64), the gateway-to- gateway reliable transport link (see TCP/IP format, column 10, lines 1-30) and the second data link protocol (see column 10, lines 1-30 and column 12, lines 10-23).

In claim 51, Farris et al. teaches of a first gateway (see figure 4, block 72), wherein the gateway-to-gateway reliable transport link uses a different error correction protocol (see TCP/IP format, column 10, lines 1-30) than the first data link protocol (see column 6, lines 60-64) and the second data link protocol (see column 10, lines 1-30 and column 12, lines 10-23).

***Claim Rejections - 35 USC § 103***

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 33, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. (US 6438218 B1).

In claim 33, Farris et al. teaches of a method, wherein the gateway-to-gateway transport link is a reliable transport link. However using an unreliable transport link as the gateway-to-gateway transport link is well known in the art.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use an unreliable transport link as the gateway-to-gateway

transport link. The motivation to combine would have been to have both reliable and unreliable transport link such as TCP and UDP, so that the method can provide and charge its users, according to different types of quality of service.

In claim 41, Farris et al. teaches of a first gateway device, wherein the gateway-to-gateway transport link is a reliable transport link. However using an unreliable transport link as the gateway-to-gateway transport link is well known in the art.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use an unreliable transport link as the gateway-to-gateway transport link. The motivation to combine would have been to have both reliable and unreliable transport link such as TCP and UDP, so that the method can provide and charge its users, according to different types of quality of service.

9. Claims 34 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. (US 6438218 B1) in view of Endo (US 6381038 B1).

In claim 34, Farris et al. teaches of a method wherein the determining of the set of data link parameters (see column 12, lines 10-23 and column 6, lines 5-22) includes initiating the first data link protocol (see column 6, lines 60-64), but does not expressly disclose stalling the first data link protocol.

Endo et al. teaches of a method of stalling the first data link protocol (see RNR, figures 12-15, and columns 25, 26, and 28).

Farris et al. and Endo et al. are analogous art because they are from the same field of endeavor of modem-to-modem communications over the Internet through gateways (see figure 12).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Endo et al.'s method of stalling the first data link protocol (see RNR, figures 12-15, and columns 25, 26, and 28) in Farris et al.'s method of communication between a modem and gateway.

The motivation to combine would have been to have a gateway in a modem-to-modem communication system, which can achieve smooth and reliable communication by reducing a possibility of communication errors.

In claim 42, Farris et al. teaches of a first gateway device, wherein the determining of the set of data link parameters (see column 12, lines 10-23 and column 6, lines 5-22) includes initiating the first data link protocol (see column 6, lines 60-64), but does not expressly disclose stalling the first data link protocol. Endo et al. teaches of a method of stalling the first data link protocol (see RNR, figures 12-15, and columns 25, 26, and 28).

Farris et al. and Endo et al. are analogous art because they are from the same field of endeavor of modem-to-modem communications over the Internet through gateways (see figure 12).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Endo et al.'s technique of stalling the first data link protocol

Art Unit: 2609

(see RNR, figures 12-15, and columns 25, 26, and 28) in Farris et al.'s gateway device for communication between a modem and gateway.

The motivation to combine would have been to have a gateway in a modem-to-modem communication system, which can achieve smooth and reliable communication by reducing a possibility of communication errors.

10. Claims 35-37 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. (US 6438218 B1) in view of Endo (US 6381038 B1) as applied to claim 34 above, and further in view of Davis et al. (US 6049902).

In claim 35, Farris et al. and Endo et al. teach of a method of determining the set of data link parameters and the first data link protocol as recited in claim 34, but does not expressly disclose the protocol being based on ITU V.42 standard.

In claim 36, Farris et al. and Endo et al. teach of a method, wherein the stalling includes transmitting an RNR by the first gateway to the first modem as referenced in claim 34 (see Endo et al. figure 15).

In claim 37, Farris et al. and Endo et al. teach of a method, wherein the determining of the set of data link parameters further includes resuming the first data link protocol by transmitting an RR to the first modem as referenced in claim 34 (see Endo et al. column 28).

For claim 35, Davis et al. (US 6049902) discloses a protocol being based on ITU V.42 standard (see column 6, lines 10-20).

For claim 35, at the time of the invention it would have been obvious to a person of ordinary skill in the art to use Davis et al.'s ITU V.42 standard (see column 6, lines 10-20) in Farris et al. and Endo et al.'s first data link protocol for reliable communications.

The motivation for claim 35, would have been to have a standard protocol such as the ITU V series, which describe modem operation and design in order to permit different, conforming computer systems to communicate. Thus, using a protocol such as the ITU V.42 protocol, which is an error detection and recovery via retransmission protocol, would overcome data communication errors.

In claim 43, Farris et al. and Endo et al. teach of a first gateway device, determining the set of data link parameters and the first data link protocol as recited in claim 42, but does not expressly disclose the protocol being based on ITU V.42 standard.

In claim 44, Farris et al. and Endo et al. teach of the first gateway device, wherein the stalling includes transmitting an RNR by the first gateway to the first modem as referenced in claim 42 (see Endo et al. figure 15).

In claim 45, Farris et al. and Endo et al. teach of the first gateway device, wherein the determining of the set of data link parameters further includes resuming the first data link protocol by transmitting an RR to the first modem as referenced in claim 42 (see Endo et al. column 28).

For claim 43, Davis et al. (US 6049902) discloses a protocol being based on ITU V.42 standard (see column 6, lines 10-20).

Art Unit: 2609

For claim 43, at the time of the invention it would have been obvious to a person of ordinary skill in the art to use Davis et al.'s ITU V.42 standard (see column 6, lines 10-20) in Farris et al. and Endo et al.'s first data link protocol for reliable communications.

The motivation for claim 43, would have been to have a standard protocol such as the ITU V series, which describe modem operation and design in order to permit different, conforming computer systems to communicate. Thus, using a protocol such as the ITU V.42 protocol, which is an error detection and recovery via retransmission protocol and data compression standard, would overcome data communication errors.

11. Claim 49 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. (US 6438218 B1) in view of Davis et al. (US 6049902).

In claim 49, Farris et al. teaches of a method for use by a first gateway (see figure 4, block 72), but does not expressly disclose that the first data link protocol includes data compression.

Davis et al. (US 6049902) discloses a protocol being based on ITU V.42 standard (see column 6, lines 10-20).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Davis et al.'s ITU V.42 standard (see column 6, lines 10-20) in Farris et al.'s first data link protocol for reliable communications.



The motivation would have been to have a standard protocol such as the ITU V series, which describe modem operation and design in order to permit different, conforming computer systems to communicate. Thus, using a protocol such as the ITU V.42 protocol, which is an error detection and recovery via retransmission protocol and a data compression standard protocol, would overcome data communication errors.

In claim 53, Farris et al. teaches a first gateway (see figure 4, block 72), but does not expressly disclose that the first data link protocol includes data compression. Davis et al. (US 6049902) discloses a protocol being based on ITU V.42 standard (see column 6, lines 10-20).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use Davis et al.'s ITU V.42 standard (see column 6, lines 10-20) in Farris et al.'s first data link protocol for reliable communications.

The motivation would have been to have a standard protocol such as the ITU V series, which describe modem operation and design in order to permit different, conforming computer systems to communicate. Thus, using a protocol such as the ITU V.42 protocol, which is an error detection and recovery via retransmission protocol and a data compression standard protocol, would overcome data communication errors.

Art Unit: 2609

***Allowable Subject Matter***

12. Claims 48 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

	Document Number Country Code-Number-Kind Code	Date MM- YYYY	Name	Classification
A	US-5,287,103 A	02-1994	Kasprzyk et al.	340/825.52
B	US-5,732,219 A	03-1998	Blumer et al.	709/227
C	US-6,130,880 A	10-2000	Naudus et al.	370/235
D	US-2001/0024439 A1	09-2001	Morgan et al.	370/352
E	US-5,956,391 A	09-1999	Melen et al.	379/114.01
F	US-6,374,288 B1	04-2002	Bhagavath et al.	709/203

All of the above are cited to show methods and apparatus for data communications through packet networks.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdullah Riyami whose telephone number is (571) 270-3119. The examiner can normally be reached on Monday through Thursday 8am-5pm EST.

Art Unit: 2609

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dang Ton can be reached on (571) 272-3171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR

  
DANG T. TON  
SUPERVISORY PATENT EXAMINER